

AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 524

Introduced by Senator Lara
(Coauthors: Senators Liu and McGuire)

February 26, 2015

An act to amend Section 1505 of, and to add Section 1502.2 to, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 524, as amended, Lara. ~~Private alternative therapeutic institutions~~ *residential care facilities* for youth.

Existing law, the California Community Care Facilities Act (the act), provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Under existing law, the act does not apply to certain facilities, including, among others, any school dormitory or similar facility determined by the department. Existing law makes a violation of any of these provisions punishable as a misdemeanor.

This bill would define “~~private alternative therapeutic institution~~ *residential care facility* for youth,” for purposes of the act, and would specify that the act applies to those ~~institutions~~ *facilities*. The bill would prohibit a person, firm, partnership, association, organization, ~~or corporation~~ *corporation, or other entity* from operating, establishing, managing, conducting, or maintaining this type of ~~institution~~ *facility* unless the ~~institution~~ *facility* is licensed by the department. ~~The bill would require the department, no later than June 1, 2016, to adopt regulations establishing oversight and monitoring of private alternative therapeutic institutions for youth that, at a minimum, ensure the physical~~

and mental well-being of youth in those institutions, and create mandated personal rights for those youth. *The bill would require the department to license and inspect these facilities as community care facilities.* The bill would prohibit the department from licensing a private ~~alternative therapeutic institution~~ residential care facility for youth unless all therapeutic components of the programs provided at the ~~institution~~ facility are licensed by the appropriate agency or department. ~~By~~ *The bill would prohibit transferring a license.*

This bill would require an applicant for a license to file an application on forms furnished by the department and include specified evidence and information, including, but not limited to, a criminal record clearance. The bill would authorize the department to charge a license application fee and annual regulatory fee in an amount not to exceed the costs reasonably borne by the department in licensing and regulating these facilities. The bill would make moneys from these fees available to the department, upon appropriation of the Legislature, solely for purposes of licensing and regulating these facilities. The bill would require a facility to submit to the department a training plan for facility staff to be approved by the department prior to the facility implementing the training plan. The bill would specify the minimum number of hours of staff training, specify required training content, and require the department to adopt related regulations.

By adding private ~~alternative therapeutic institutions~~ residential care facilities for youth to the act, this bill would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Since the 1990s, hundreds of nontraditional treatment
- 4 programs that are intended to be less restrictive treatment options

1 for children with significant behavioral issues have been established
2 nationwide, with thousands of allegations of abuse, including death.

3 (b) There are currently facilities operating within California that
4 are not licensed by the State Department of Social Services.

5 (c) These facilities are often owned and operated by nonprofit
6 organizations described in Section 501(c)(3) of the Internal
7 Revenue Code.

8 (d) These facilities advertise services for youth with behavioral
9 issues to families who may feel they have no other options.

10 (e) Former students have formed national and local organizations
11 to expose the trauma and abuse they experienced at these facilities.

12 (f) Students at these facilities are previous victims of trauma,
13 have experienced parental rejection based on actual or perceived
14 sexual orientation or gender identity, and have mental health and
15 substance use issues.

16 (g) It is the role of the Legislature to ensure proper licensing
17 and regulation of residential facilities for the protection and care
18 of all citizens.

19 (h) *It is the intent of the Legislature that the state license private
20 residential care for youth as a community care facility to ensure
21 the safety of children residing in those facilities.*

22 SEC. 2. Section 1502.2 is added to the Health and Safety Code,
23 to read:

24 1502.2. (a) ~~“Private alternative therapeutic institution”~~ *As used
25 in this section, the following definitions apply:*

26 (1) *“Administrator” means the individual designated by the
27 licensee to act on behalf of the licensee in the overall management
28 of the facility. The licensee, if an individual, and the administrator
29 may be one and the same person.*

30 (2) *“Department” means the State Department of Social
31 Services.*

32 (3) *“Director” means the Director of Social Services.*

33 (4) *“License” means a basic permit to operate a private
34 residential care facility for youth.*

35 (5) *“Private residential care facility for youth” means any
36 24-hour residential facility or program operated by a private entity
37 with a focus on serving providing nonmedical care, counseling,
38 educational or vocational support to persons from 12 to 18 years
39 of age and younger with social, emotional, behavioral, or mental*

1 health issues or disorders, ~~and that~~ *including a program that*
2 provides any of the following:

3 ~~(1)~~

4 (A) A program with wilderness or outdoor experience,
5 expedition, or intervention.

6 ~~(2)~~

7 (B) A boot camp experience or other experience designed to
8 simulate characteristics of basic military training or correctional
9 regimes.

10 ~~(3)~~

11 (C) A therapeutic boarding school.

12 ~~(4)~~

13 (D) A behavior modification program.

14 (b) (1) A person, firm, partnership, association, organization,
15 ~~or corporation~~ *corporation, or other entity* shall not operate,
16 establish, manage, conduct, or maintain a private ~~alternative~~
17 ~~therapeutic institution~~ *residential care facility* for youth, unless
18 the facility is licensed by the department.

19 ~~(e) The department shall adopt regulations no later than June~~
20 ~~1, 2016, establishing oversight and monitoring of private alternative~~
21 ~~therapeutic institutions for youth that, at a minimum, ensure the~~
22 ~~physical and mental well-being of youth in those institutions, and~~
23 ~~create mandated personal rights for those youth.~~

24 ~~(d) The~~

25 (2) *The department shall license and inspect a private residential*
26 *care facility for youth as a community care facility. A license is*
27 *not transferable.*

28 (c) *The department shall not license a private ~~alternative~~*
29 ~~therapeutic institution~~ *residential care facility* for youth unless all
30 therapeutic components of the programs provided at the ~~institution~~
31 *facility* are licensed by the appropriate agency or department.

32 (d) *Any person desiring issuance of a license for a private*
33 *residential care facility for youth under this chapter shall file an*
34 *application on forms furnished by the department. The application*
35 *shall include, but not be limited to, all of the following:*

36 (1) *Evidence satisfactory to the department of the ability of the*
37 *applicant to comply with this section and any rules and regulations*
38 *adopted by the department under this section.*

39 (2) (A) *Evidence satisfactory to the department that the*
40 *applicant is of reputable and responsible character.*

1 (B) *The evidence under this paragraph shall include, but is not*
2 *limited to, all of the following:*

3 (i) (I) *A criminal record clearance pursuant to Section 1522.*
4 *The law enforcement agency from which a criminal record is*
5 *requested may charge a reasonable fee sufficient to cover its cost*
6 *in providing the criminal record in accordance with this*
7 *paragraph.*

8 (II) *The department shall review the criminal record to*
9 *determine whether the applicant has ever been convicted of a crime*
10 *other than a minor traffic violation or arrested for any crime*
11 *specified in subdivision (c) of Section 290 of the Penal Code, or*
12 *for violating Section 245, 273ab, or 273.5, subdivision (b) of*
13 *Section 273a, or, prior to January 1, 1994, paragraph (2) of*
14 *Section 273a, of the Penal Code, or for any crime for which the*
15 *department is prohibited from granting a criminal record*
16 *exemption. If the applicant has been convicted of one of these*
17 *crimes, the department shall not license the applicant.*

18 (ii) *Employment history.*

19 (iii) *Character references.*

20 (C) *If the applicant is a firm, association, organization,*
21 *partnership, business trust, corporation, or other entity, the*
22 *evidence required by this paragraph shall be submitted for*
23 *members or shareholders of the entity and the person who will act*
24 *as administrator.*

25 (3) *Evidence satisfactory to the department that the applicant*
26 *has sufficient financial resources to maintain the standards of*
27 *service required by this section.*

28 (4) *Disclosure of any revocation or other disciplinary action*
29 *taken, or in the process of being taken, against a license held or*
30 *previously held by the applicant.*

31 (5) *Evidence satisfactory to the department of the applicant's*
32 *ability to meet regulatory requirements for the level of care the*
33 *facility intends to provide.*

34 (6) *Evidence satisfactory to the department of adequate*
35 *knowledge of supportive services and other community supports*
36 *that may be necessary to meet the needs of youth residents.*

37 (7) *Designation by the applicant of the individual who shall be*
38 *the administrator of the facility, including, if the applicant is an*
39 *individual, whether the licensee shall also be the administrator.*

1 (8) A signed statement that the individual submitting the
2 application for a license has read and understands the laws and
3 regulations governing a private residential care facility for youth.

4 (9) Any other information as may be required by the department
5 for the proper administration and enforcement of this chapter.

6 (10) The facilities plan of operation in accordance with Section
7 80022 of Title 22 of the California Code of Regulations.

8 (e) The department shall notify a prospective applicant for
9 licensure of all of the following:

10 (1) At the time of the initial request for information regarding
11 the application for licensure, that, prior to obtaining a license, the
12 facility shall secure and maintain a fire clearance approval from
13 the appropriate local fire enforcing agency or the State Fire
14 Marshall, whichever has primary fire protection jurisdiction.

15 (2) The provisions of Section 13235 relating to the fire safety
16 clearance application.

17 (3) That the fire clearance shall be in accordance with state
18 and local fire safety regulations.

19 (f) (1) The department shall deny an application to issue a
20 license if the applicant fails to cooperate with the department in
21 completing the application.

22 (2) An applicant shall have failed to cooperate if the applicant
23 has not provided the information described in this section and in
24 applicable regulations of the department, or has not provided that
25 information in the form requested by the department.

26 (g) Any duly authorized officer, employee, or agent of the
27 department may, upon presentation of proper identification, enter
28 and inspect any place within a private residential care facility for
29 youth providing personal care, supervision, or services at any
30 time, with or without advance notice, to secure compliance with,
31 or to prevent a violation of, this chapter.

32 (h) (1) The department may charge an application fee, adjusted
33 by capacity, for the issuance of a license to operate a private
34 residential care facility for youth, in an amount not to exceed the
35 costs reasonably borne by the department in licensing these
36 facilities.

37 (2) The department may charge a regulatory fee on each annual
38 anniversary of the effective date of the license, in an amount not
39 to exceed the costs reasonably borne by the department in
40 regulating these facilities.

1 (3) Fee moneys collected pursuant to this subdivision shall be
2 available to the department, upon appropriation of the Legislature,
3 solely for the purposes of this section.

4 (i) (1) The Legislature finds and declares that the quality of
5 services provided to residents of a private residential care facility
6 for youth is dependent upon the training and skills of the staff. It
7 is the intent of the Legislature in enacting this section to ensure
8 that a direct-care staff member has the knowledge and proficiency
9 to carry out the tasks of his or her job.

10 (2) A staff member of a private residential care facility for youth
11 who supervises residents shall receive appropriate training
12 consisting of 10 hours within the first four weeks of employment
13 and eight hours annually thereafter. This training shall be
14 administered while the staff is working at the facility, or in a
15 classroom setting, or a combination of those settings.

16 (3) A facility shall submit its training plan to the department
17 and shall implement the training plan only after the department
18 has approved the plan. The training plan shall include, but not be
19 limited to, all of the following subject areas:

20 (A) Residents' rights as described in subdivision (j).

21 (B) Psychosocial needs of youth.

22 (C) Appropriate response to emergencies.

23 (D) Physical needs for youth residents.

24 (E) Cultural competency and sensitivity in issues relating to the
25 underserved, lesbian, gay, bisexual, and transgender communities.

26 (F) Laws and regulations pertaining to community care facilities
27 and programs of private residential care facilities for youth.

28 (G) The department shall adopt regulations that establish
29 additional subject matter required to be included in this training.

30 (j) A resident of a private residential care facility for youth has
31 all of the following rights:

32 (1) To be accorded dignity in his or her personal relationships
33 with staff, residents, and other persons.

34 (2) To be granted a reasonable level of personal privacy in
35 accommodations, medical care, personal care and assistance,
36 visits, written and electronic communications, and telephone
37 conversations.

38 (3) To confidential care of his or her records and personal
39 information, and to approve release of those records prior to their
40 release, except as otherwise authorized or required by law.

1 (4) *To care, supervision, and services that meet his or her*
2 *individual needs and are delivered by staff that are sufficient in*
3 *numbers, qualifications, and competency to meet his or her needs*
4 *and ensure his or her safety.*

5 (5) *To be served food of the quality and in the quantity necessary*
6 *to meet his or her nutritional needs.*

7 (6) (A) *To present grievances and recommend changes in*
8 *policies, procedures, and services to the facility's staff,*
9 *management, and governing authority, and any other person*
10 *without restraint, coercion, discrimination, reprisal, or other*
11 *retaliatory actions.*

12 (B) *To have the licensee take prompt actions to respond to those*
13 *grievances.*

14 (7) *To have frequent contact with parents or guardians,*
15 *including scheduled and unscheduled telephone conversations,*
16 *unrestricted written correspondence, and electronic*
17 *communications.*

18 (8) *To be fully informed, as evidenced by the resident's written*
19 *acknowledgment, prior to, or at the time of, admission to the*
20 *facility, of all the rules governing the resident's conduct and*
21 *responsibilities.*

22 (9) *To receive in the admission agreement, information that*
23 *details the planned treatments and care for the resident.*

24 (10) *For parents or guardians to remove the resident from the*
25 *facility.*

26 (11) *To consent to have a relative or other person of the*
27 *resident's choosing visit or telephone during reasonable hours,*
28 *privately and without prior notice.*

29 (12) *To be free of corporal punishment, deprivation of basic*
30 *necessities, including education, as a punishment, deterrent, or*
31 *incentive, and physical restraints of any kind.*

32 (13) *To receive supportive mental and emotional health-related*
33 *services from trained staff who are licensed or are overseen by*
34 *licensed mental health professionals.*

35 (14) *To be free from abusive, humiliating, degrading, or*
36 *traumatizing actions.*

37 (k) (1) *A private residential care facility for youth shall not*
38 *accept for placement, or provide care or supervision to, a child*
39 *assessed as seriously emotionally disturbed, unless the State*
40 *Department of Health Care Services has certified the facility as a*

1 *program meets the standards to provide mental health treatment*
2 *services for a seriously emotionally disturbed child set forth in*
3 *Section 4096.5 of the Welfare and Institutions Code.*

4 (2) “*Seriously emotionally disturbed*” has the meaning defined
5 *in paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare*
6 *and Institutions Code.*

7 (l) *Unless a private residential care facility for youth has been*
8 *licensed as an alcoholism or drug abuse recovery or treatment*
9 *facility pursuant to Section 11834.01, the facility shall not advertise*
10 *or promote services designed to promote the treatment of, or*
11 *maintain recovery from, alcohol or drug use, which services*
12 *include one or more of the following types of treatment:*

13 (1) *Detoxification.*

14 (2) *Group sessions.*

15 (3) *Individual sessions.*

16 (4) *Educational sessions.*

17 (5) *Alcoholism or drug abuse recovery or treatment planning.*

18 (m) *A private residential care facility for youth shall not provide*
19 *secure containment or use restraints of any kind unless the program*
20 *components are subject to program standards developed and*
21 *enforced by the State Department of Health Care Services pursuant*
22 *to Section 4094 of the Welfare and Institutions Code.*

23 (n) *A private residential care facility for youth is not an eligible*
24 *placement option pursuant to Section 319, 361.2, 450, or 727 of*
25 *the Welfare and Institutions Code.*

26 (o) *A private residential care facility for youth is not eligible*
27 *for a rate pursuant to Section 11462 of the Welfare and Institutions*
28 *Code.*

29 (p) *A private residential care facility for youth shall not accept*
30 *for residential placement a child younger than 12 years of age.*

31 (q) *A licensee of a private residential care facility for youth that*
32 *advertises or promotes special care, programming, or*
33 *environments for persons with a mental health, emotional, or social*
34 *challenge, shall provide each prospective resident and his or her*
35 *parent or guardian an accurate narrative description of these*
36 *programs and services. The facility shall provide the description*
37 *in writing prior to admitting the prospective resident.*

38 SEC. 3. Section 1505 of the Health and Safety Code is amended
39 to read:

40 1505. This chapter does not apply to any of the following:

- 1 (a) Any health facility, as defined by Section 1250.
2 (b) Any clinic, as defined by Section 1202.
3 (c) Any juvenile placement facility approved by the Department
4 of Corrections and Rehabilitation, Division of Juvenile Justice, or
5 any juvenile hall operated by a county.
6 (d) Any place in which a juvenile is judicially placed pursuant
7 to subdivision (a) of Section 727 of the Welfare and Institutions
8 Code.
9 (e) Any child day care facility, as defined in Section 1596.750.
10 (f) Any facility conducted by and for the adherents of any
11 well-recognized church or religious denomination for the purpose
12 of providing facilities for the care or treatment of the sick who
13 depend *solely* upon prayer or spiritual means for healing in the
14 practice of the religion of the church or denomination.
15 (g) Any school dormitory or similar facility determined by the
16 department, except a private ~~alternative therapeutic institution~~
17 *residential care facility* for youth as defined in Section 1502.2.
18 (h) Any house, institution, hotel, homeless shelter, or other
19 similar place that supplies board and room only, or room only, or
20 board only, provided that no resident thereof requires any element
21 of care as determined by the director.
22 (i) Recovery houses or other similar facilities providing group
23 living arrangements for ~~persons~~ *adults* recovering from alcoholism
24 or drug addiction where the facility provides no care or supervision.
25 (j) Any alcoholism or drug abuse recovery or treatment facility
26 *servicing adults* as defined by Section 11834.11.
27 (k) Any arrangement for the receiving and care of persons by
28 a relative or any arrangement for the receiving and care of persons
29 from only one family by a close friend of the parent, guardian, or
30 conservator, if the arrangement is not for financial profit and occurs
31 only occasionally and irregularly, as defined by regulations of the
32 department. For purposes of this chapter, arrangements for the
33 receiving and care of persons by a relative shall include relatives
34 of the child for the purpose of keeping sibling groups together.
35 (l) (1) Any home of a relative caregiver of children who are
36 placed by a juvenile court, supervised by the county welfare or
37 probation department, and the placement of whom is approved
38 according to subdivision (d) of Section 309 of the Welfare and
39 Institutions Code.

1 (2) Any home of a nonrelative extended family member, as
2 described in Section 362.7 of the Welfare and Institutions Code,
3 providing care to children who are placed by a juvenile court,
4 supervised by the county welfare or probation department, and the
5 placement of whom is approved according to subdivision (d) of
6 Section 309 of the Welfare and Institutions Code.

7 (3) On and after January 1, 2012, any supervised independent
8 living placement for nonminor dependents, as defined in
9 subdivision (w) of Section 11400 of the Welfare and Institutions
10 Code, who are placed by the juvenile court, supervised by the
11 county welfare department, probation department, Indian tribe,
12 consortium of tribes, or tribal organization that entered into an
13 agreement pursuant to Section 10553.1 of the Welfare and
14 Institutions Code, and whose placement is approved pursuant to
15 subdivision (k) of Section 11400 of the Welfare and Institutions
16 Code.

17 (4) A Transitional Housing Program-Plus, as defined in
18 subdivision (s) of Section 11400 of the Welfare and Institutions
19 Code, that serves only eligible former foster youth over 18 years
20 of age who have exited from the foster care system on or after their
21 18th birthday, and that has obtained certification from the
22 applicable county in accordance with subdivision (c) of Section
23 16522 of the Welfare and Institutions Code.

24 (m) Any supported living arrangement for individuals with
25 developmental disabilities, as defined in Section 4689 of the
26 Welfare and Institutions Code.

27 (n) (1) Any family home agency, family home, or family
28 teaching home as defined in Section 4689.1 of the Welfare and
29 Institutions Code, that is vendored by the State Department of
30 Developmental Services and that does any of the following:

31 (A) As a family home approved by a family home agency,
32 provides 24-hour care for one or two adults with developmental
33 disabilities in the residence of the family home provider or
34 providers and the family home provider or providers' family, and
35 the provider is not licensed by the State Department of Social
36 Services or the State Department of Public Health or certified by
37 a licensee of the State Department of Social Services or the State
38 Department of Public Health.

39 (B) As a family teaching home approved by a family home
40 agency, provides 24-hour care for a maximum of three adults with

1 developmental disabilities in independent residences, whether
2 contiguous or attached, and the provider is not licensed by the
3 State Department of Social Services or the State Department of
4 Public Health or certified by a licensee of the State Department of
5 Social Services or the State Department of Public Health.

6 (C) As a family home agency, engages in recruiting, approving,
7 and providing support to family homes.

8 (2) No part of this subdivision shall be construed as establishing
9 by implication either a family home agency or family home
10 licensing category.

11 (o) Any facility in which only Indian children who are eligible
12 under the federal Indian Child Welfare Act (Chapter 21
13 (commencing with Section 1901) of Title 25 of the United States
14 Code) are placed and that is one of the following:

15 (1) An extended family member of the Indian child, as defined
16 in Section 1903 of Title 25 of the United States Code.

17 (2) A foster home that is licensed, approved, or specified by the
18 Indian child's tribe pursuant to Section 1915 of Title 25 of the
19 United States Code.

20 (p) (1) (A) Any housing occupied by elderly or disabled
21 persons, or both, that is initially approved and operated under a
22 regulatory agreement pursuant to Section 202 of Public Law 86-372
23 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625
24 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to
25 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that
26 receives mortgage assistance pursuant to Section 221d (3) of Public
27 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
28 made available to residents at their option, as long as the project
29 owner or operator does not contract for or provide the supportive
30 services.

31 (B) Any housing that qualifies for a low-income housing credit
32 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
33 or that is subject to the requirements for rental dwellings for
34 low-income families pursuant to Section 8 of Public Law 93-383
35 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
36 persons, or both, where supportive services are made available to
37 residents at their option, as long as the project owner or operator
38 does not contract for or provide the supportive services.

1 (2) The project owner or operator to which paragraph (1) applies
2 may coordinate, or help residents gain access to, the supportive
3 services, either directly, or through a service coordinator.

4 (q) A resource family, as defined in Section 16519.5 of the
5 Welfare and Institutions Code.

6 (r) Any similar facility determined by the director.

7 SEC. 4. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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